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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,283	02/05/2002	Axel Scherer	CIT.PAU.01	9733
7590	03/08/2004			
Daniel L. Dawes MYERS, DAWES & ANDRAS LLP 19900 MacArthur Blvd, Ste 1150 Irvine, CA 92612				
			EXAMINER MCDONALD, RODNEY GLENN	
			ART UNIT 1753	PAPER NUMBER

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/068,283

Applicant(s)

SCHERER ET AL.

Examiner

Rodney G. McDonald

Art Unit

1753

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☒ Newly proposed or amended claim(s) 4, 14 and 15 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: 2, 3 and 5-13.

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1, 4, 14, 15 and 21-25.

Claim(s) withdrawn from consideration: 16-20

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
Rodney G. McDonald  
Primary Examiner  
Art Unit: 1753

Continuation of 2. NOTE: The limitation of having the plasma sputtering deposition disposed onto the elastomeric material was not considered in the finally rejected claims.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The restriction requirement has been overcome by cancellation of claims 16-20. The 35 U.S.C. 1st paragraph rejection to claims 1, 14 and 15 has been overcome. The 35 U.S.C. 2<sup>nd</sup> paragraph rejection of claim 4 has been overcome.

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons set forth in the final rejection. The resist has some elasticity to it since it is a polymer even though Applicant argues it is a thermoset rigid material. With regard to claims 21-25 the 1st paragraph rejection will be maintained because Applicant has failed to show where in the specification the combination of directional etching and sputtering for masking is shown. The only statement Applicant makes is that directional etching is one focal point of the invention but it is not clear in showing the combination of the etching and sputtering steps..

Also the status indicator indicating "allowed" is not permitted when making the amendment.